

New Hampshire Department of Revenue Administration

Fiscal Note Quick Guide

12-2008.0

HB 1515-FN-LOCAL, *relative to the assessment of the Land Use Change Tax and the use of Land Use Change Tax revenues.*

House Municipal and County Government Committee

This bill amends the tax collection procedures for the Current Use Land Use Change Tax under RSA chp. 79-A, adds the failure to pay property taxes and the failure to notify of a qualifying use change to the actions which trigger the Land Use Change Tax; and requires all municipal Land use Change Tax revenues to be recognized as General Fund revenue.

Under this bill, the Land Use Change Tax will still be due 30 days after the date of mailing the tax bill, but no interest will be charged if payment is not made within the 30-day period. Collections shall be as provided in RSA 79-A:7, II(e). Unpaid bills after the 30-day period will be subject to accelerated collections, and will only allow for redemption of tax lien for a period of 30 days after the due date of the Land Use Change Tax. After that date, a tax deed shall be executed to the municipality. Property subject to a Land Use Change Tax shall be deeded to municipality within 60 days of the issuance of the bill. *The Department of Revenue Administration noted that this provision would shorten the amount of time that municipalities have to collect these taxes, and may significantly impact the due process rights that taxpayers currently have.*

This bill adds a new provision in RSA 79-A:7, VI(c), which imposes the Land Use Change Tax any time an owner fails to pay assessed property taxes within 30 days of the date of notice of tax (regular real estate taxes under RSA 76:1-a). This provision would impose this tax upon the failure to pay another tax as well. The distinction of the Land Use Change Tax from standard property tax might be lost if such an association is made. *The Department noted that this dissimilar treatment of similarly situated taxpayers would invite analysis to determine if an equal protection violation exists.*

This bill also adds a new provision where failure to notify local assessing officials of a change from one qualifying category to another qualifying category will result in the imposition of a Land Use Change Tax.

The remaining changes in the bill are relative to the disposition of the Land Use Change Tax revenue. These changes only affect the revenues generated by the imposition of the tax.

The Department identified a significant unintended consequence with the construction of an exit for taxpayers wishing to “remove” their property from current use taxation. Current use is a perpetual dedication that does not allow for election to end. Disqualifying events may occur, but there is no provision for optional removal. A taxpayer wishing to develop a parcel in the future,

but looking to limit their tax liability, need only delay payment of RSA 76:1-a taxes until 31 days from the notice of tax under the provisions of this legislation. The taxpayer would then be able to pay the tax at a much lower value than the amount when developed and normally disqualified.

The knowledge on the part of taxpayers that they might reduce the amount of Land Use Change Tax liability by causing a single late payment would likely result in a lower amount of Land Use Change Taxes paid to municipalities. The disruption could also undercut the fundamental balance between municipal benefits and taxpayer benefits that exists in the current use laws.

In providing a fiscal impact statement, the Department of Revenue Administration could not estimate the number of taxpayers that will either change qualifying categories in any given year, or pay their property tax bill more than 30 days after the RSA 76:1-a date of notice of tax. Additionally, the Land Use Change Tax is based on 10% of the market value of the property at the time of the disqualifying event. This is a value that is unknown, and different for each property. For these reasons, a fiscal impact could not be determined.

In Section 2 of this bill - the amount of time that municipalities have to collect these taxes is shortened and may significantly impact due process rights that taxpayers currently have.

In Section 3 of this bill: Dissimilar treatment of similarly situated taxpayers invites and equal protection analysis to determine if an equal protection violation exists.

Finally, the Department suggested a review by a constitutional law attorney to determine if there exist any constitutional challenges to this bill.